

## Workers' Compensation

Updated – 11/28/2007

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
<b>FORMS</b>		
<b>Applications</b>		
Direct enforcement by employees	31A-22-1004	All policies, whether in whole or in part, by either the employer or the insurer, bars recovery by the employee or his dependents to the extent of the payment.
Payment as bar to recovery	31A-22-1005	All policies, whether in whole or in part, by either the employer or the insurer, bars recovery by the employee or his dependents to the extent of the payment.
Insurer's constructive knowledge	31A-22-1006	All policies shall contain a provision that, as between the employee and the insurer, notice to or knowledge of the occurrence of the injury on the part of the employer is considered to be notice or knowledge to the insurer. This provision shall also state that the insurer is bound and subject to the orders, findings, decisions, and awards rendered against the employer for the payment of compensation on account of compensable accidental injuries or occupational disease disability.
<b>Arbitration</b>		
Permissible Arbitration	R590-122 – Bulletin 96-7	Policies that contain a binding arbitration provision are permitted, however mandatory binding arbitration may preempt an insured's access to some courts. See actual rule for disclosure statement
<b>Bankruptcy Provision</b>		
Employer's insolvency	31A-22-1007	All Policies shall contain a provision that the insolvency of the employer and his discharge does not relieve the insurer from the payment of compensation for injuries or death sustained by an employee during the life of that policy or contract.
<b>Cancellation</b>		
Duration of coverage	31A-22-1002 – 34A-2-205 – 31A-33-113	Cancellations must give 30 days notice to the policyholder and the Division of Industrial Accidents in the Labor Commission.
<b>Filing Standards</b>		
Filing and approval of Forms	31A-21-201- Bulletin 99-3	File and Use – Forms cannot be inequitable, unfairly discriminatory, misleading, deceptive, obscure, unfair, encourages misrepresentation, or not in the public interest
Policies, applications & certificates	31A-21-101	(a) Delivered or issued for delivery in this state; (b) on property ordinarily located in this state; (c) on persons residing in this state when the policy is issued; and (d) on business operations in this state.
<b>Loss Settlement</b>		
Waiver of subrogation	34A-2-106 - Bulletin 99-8	The Statute prohibits the insurer from unilaterally compromising the entire claim against the third part. It does not prevent the insurer from compromising its subrogation portion of the claim. The waiver is permissible as long as it does not affect the employee's rights. It should expressly exclude from release the employee's rights against the third party, and exclude from release the insurer's authority as trustee of the entire claim.
Unfair claim settlement practices	31A-26-303	No insurer or person representing an insurer may engage in any unfair claim settlement practice. Claim settlement practices may not be misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition (see code for detailed unfair practices)
<b>RATING</b>		
<b>Pricing</b>		
Filing of rates & other rating information	31A-19a-405	All workers' compensation rates, supplementary rate information, and supporting information shall be filed at least 30 days before the effective date of the rate or information. The loss and loss adjustment expense factors included in the rates filed shall be the prospective loss costs filed by the designated rate service organization
Rate Standards	31A-19a-201, 31A-19a-202	Rates may not be excessive, inadequate, or unfairly discriminatory
Rate filings	31A-19a-203	All rates, all supplementary information, and all changes in amendments to rates and supplementary information must be filed 30 days before the date you start using them.
<b>Rating Plan Requirements</b>		
Deductible Plans	31A-22-1010 - Bulletin 92-7	Are permitted under certain circumstances. Our definition of deductible plan is a plan that provides for the insured to participate in the payment of the insurance claims and losses covered by the policy. Under no circumstances will any plan be allowed to permit an insured to pay any amount directly. The only type that will be allowed is a "reimbursement" type of plan.
Rate modification plan rule	R590-121- Bulletin 96-7	Establishes a maximum, total modification for any rating plans that fit the rules – to a +/- 25%. No exceptions
Policy Rating Principles	Bulletin 96-7	Experience Rating Plans, Rate Modification Plans, Schedule rating, Irpm plans, and Similar Plans Providing for Ranges of Rates, Tiered Rating, Unfair Discrimination, see Bulletin for details

General Filing References		
Procedures for the submission of workers' compensation Rate filings	Bulletin 99-4	Use to file workers compensation rate and rating plan filings
Procedures for submission of Property and casualty rate, rule and form filings	R590-225	See Rule
Procedures for non-compliant Rate and Form Filings	Bulletin 2007-2	See Bulletin
Requirement to File Electronically	Bulletin 2007-3	See Bulletin
Separation of Protected and Public Information in Property & Casualty Filings	Bulletin 2007-6	See Bulletin